

AMENDED IN ASSEMBLY MAY 29, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1746**

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**Introduced by Committee on Revenue and Taxation  
(Charles Calderon (Chair), Arambula, Eng, Feuer, and Hayashi,  
and Ma)**

March 22, 2007

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An act to amend Sections 17282 and 24436.1 of, and to repeal Sections 17281 and 24436 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1746, as amended, Committee on Revenue and Taxation. Personal and corporate income taxes: deductions: illegal activities.

The Personal Income Tax Law and the Corporation Tax Law allow various deductions in computing the income that is subject to the taxes imposed by those laws. Those laws, in modified conformity to federal income tax laws, disallow any deduction from gross income if that income is directly derived from, or directly tends to promote or further, illegal activities relating to lotteries, gaming, or horse racing, and other specified illegal activities.

This bill would instead disallow a deduction for expenses attributable to income derived by a taxpayer from any criminal activity punishable under the Penal Code, specified illegal activities relating to drug trafficking, and insurance fraud, as provided.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17281 of the Revenue and Taxation Code  
2 is repealed.

3 SEC. 2. Section 17282 of the Revenue and Taxation Code is  
4 amended to read:

5 17282. (a) In computing taxable income, no deductions,  
6 including deductions for cost of goods sold, shall be allowed to  
7 any taxpayer from any of his or her gross income directly derived  
8 from any act or omission punishable under the Penal Code, Chapter  
9 6 (commencing with Section 11350) of Division 10 of the Health  
10 and Safety Code, or Article 5 (commencing with Section 750) of  
11 Chapter 1 of Part 2 of Division 1 of the Insurance Code; nor shall  
12 any deductions be allowed to any taxpayer from any of his or her  
13 gross income derived from any other activities which directly tend  
14 to promote or to further, or are directly connected or associated  
15 with, those acts or omissions.

16 (b) A prior, final determination by a court of competent  
17 jurisdiction of this state in any criminal proceedings or any  
18 proceeding in which the state, county, city and county, city, or  
19 other political subdivision was a party thereto on the merits of the  
20 legality of the activities of a taxpayer or predecessor in interest of  
21 a taxpayer *shall be required in order for subdivision (a) to apply*  
22 *and* shall be binding upon the Franchise Tax Board and the State  
23 Board of Equalization.

24 (c) This section, including amendments made by the act  
25 amending this subdivision, shall be applied with respect to taxable  
26 years which have not been closed by a statute of limitations, res  
27 judicata, or otherwise.

28 SEC. 3. Section 24436 of the Revenue and Taxation Code is  
29 repealed.

30 SEC. 4. Section 24436.1 of the Revenue and Taxation Code  
31 is amended to read:

32 24436.1. (a) In computing net income, no deductions, including  
33 deductions for cost of goods sold, shall be allowed to any taxpayer  
34 from any of its gross income directly derived from any act or

1 omission punishable under the Penal Code, Chapter 6 (commencing  
2 with Section 11350) of Division 10 of the Health and Safety Code,  
3 or Article 5 (commencing with Section 750) of Chapter 1 of Part  
4 2 of Division 1 of the Insurance Code; nor shall any deductions  
5 be allowed to any taxpayer from any of its gross income derived  
6 from any other activities which directly tend to promote or to  
7 further, or are directly connected or associated with, those acts or  
8 omissions.

9 (b) A prior, final determination by a court of competent  
10 jurisdiction of this state in any criminal proceedings or any  
11 proceeding in which the state, county, city and county, city, or  
12 other political subdivision was a party thereto on the merits of the  
13 legality of the activities of a taxpayer or predecessor in interest of  
14 a taxpayer *shall be required in order for subdivision (a) to apply*  
15 *and* shall be binding upon the Franchise Tax Board and the State  
16 Board of Equalization.

17 (c) This section, including amendments made by the act  
18 amending this subdivision, shall be applied with respect to taxable  
19 years which have not been closed by a statute of limitations, res  
20 judicata, or otherwise.

21 SEC. 5. This act provides for a tax levy within the meaning of  
22 Article IV of the Constitution and shall go into immediate effect.